

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jonah Goger	Team: Team # 4	CCRB Case #: 200301255	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 02/15/2003 2:00 PM	Location of Incident: C/O 2nd Ave & 70th St, Manhattan	Precinct: 19	18 Mo. SOL 8/15/2004	EO SOL 8/15/2004	
Date/Time CV Reported Mon, 02/17/2003 3:33 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 02/17/2003 3:33 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Kevin Mcdermott	02115	898014	032 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Carla Thomas	09988	918400	032 PCT
2. LT Kevin Mcgeever	00000	894168	NAR DIV

Officer(s)	Allegation	Investigator Recommendation
A.POM Kevin Mcdermott	Discourtesy: PO Kevin Mcdermott acted rudely to § 87(2)(b) [REDACTED]	[REDACTED]

Synopsis

This complaint stems from the anti-war rally that took place on 2/15/03, at the United Nations Headquarters, which received extensive press coverage. As such the case was deemed sensitive and has been appearing on the agency's sensitive case list.

On 2/17/03, § 87(2)(b) complained to the CCRB via e-mail that two days earlier, at the aforementioned rally, a PO Kevin McDermott confronted him in a rude and menacing manner. § 87(2)(b) agreed to mediate, but the officer, PO Kevin McDermott, refused, so the case was fully investigated.

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)'s e-mail of 2/17 (encl. 2) is summarized as follows:

§ 87(2)(b) was walking north on Second Avenue at approximately 70th St. when he heard someone shouting. He turned to see an officer later known to be the subject, PO Kevin McDermott, yelling "Keep walking! Keep walking!" while directly approaching § 87(2)(b). "Open your mouth again," he told the complainant in a threatening manner.

"I had no idea he was yelling at me," wrote § 87(2)(b) "until he was suddenly standing chest to chest with me, shouting in my face. I hadn't said anything to the police officer to begin with, so I had no idea why he was threatening me and (then) pushing me with his body. He didn't put his hands on me, but he pushed me back several times by bumping into me."

According to § 87(2)(b) the officer told him that he believed the complainant had been among a group of people who were yelling at the officer. When PO McDermott turned to walk away, § 87(2)(b)'s wife asked him for his shield number, and PO McDermott replied, "I don't care; take my name." § 87(2)(b) wrote down his name and shield #2115.

On 3/6/03, § 87(2)(b) came to the CCRB and was formally interviewed. The statement he provided was virtually identical to his e-mail of 2/17. He said that in addition to his wife, friends § 87(2)(b) and § 87(2)(b) had also attended the rally with him. He reiterated that he had not spoken to the officer or done anything to provoke him.

Results of Investigation

Attempt to mediate

§ 87(2)(g)

The case was submitted to CCRB's Alternate Disposition Resolution Unit, where it was accepted for mediation, but on 6/6/03, the CCRB was informed that PO McDermott "will not mediate." (see Mediation Activity Log, encl. 10).

The case was returned to the undersigned to be fully investigated on 6/6/03.

Civilian Witnesses

§ 87(2)(b) also interviewed at the CCRB on 3/6/03, said that she, her husband, and the two friends, § 87(2)(b) and § 87(2)(b) got off the subway at Times Square and began walking eastbound toward the rally site near the United Nations. When police barricades protecting the side streets from

pedestrian traffic forced the protesters to walk north, they turned up Second Ave. as directed. After crossing the intersection of 70th St., § 87(2)(b) heard a police officer shouting obscenities, e.g. “Keep looking. Keep looking, asshole!”

§ 87(2)(b) and her friends stopped to look back, and an officer suddenly charged toward them. He ended up in front of § 87(2)(b) yelling, “Say one more thing. Say it again.”

§ 87(2)(b) told the officer that her husband had done nothing.

The officer turned to walk away, but § 87(2)(b) followed, asking him about his outburst. The officer told her he had heard someone call him an “asshole,” and since their party had turned around when he yelled, he believed the perpetrator to be among them.

§ 87(2)(b) asked and received from PO McDermott his name and shield number, and the name and shield number of an apparent witness officer, PO Carla Thomas.

§ 87(2)(b) interviewed over the phone on 7/29/03, said that their party was passing a police barricade on a side street when they heard a commotion behind them. A police officer was approaching § 87(2)(b). He yelled, “What the fuck are you looking at?” etc. The officer was “in § 87(2)(b)s face,” but unless their chests touched, there was no physical contact.

§ 87(2)(b) said little if anything in response, and his wife began pulling him away, but the officer continued to follow and taunt § 87(2)(b) acting “confrontational.” That’s when § 87(2)(b) turned to get the officer’s name and shield number, which the officer readily provided.

Officers

PO Kevin McDermott, interviewed at the CCRB on 8/6/03, related the following:

In uniform, PO McDermott was assigned to a roving detail providing support wherever crowd control became a concern. At some point, the crowd broke through a barrier at the intersection of Second Ave and 70th St., and “we lost that corner (to general chaos)” for about 15 to 20 minutes. Eventually PO McDermott and other officers were able to control the scene and begin ushering the protesters northbound once more.

Shortly thereafter, a white male and some companions started yelling “Fuck you” to the officers. PO McDermott told the group to move along, and they began to comply, but the white male, § 87(2)(b) remained still, staring at the officer.

PO McDermott approached within two to three feet of § 87(2)(b) and “asked if he had something to say.” When § 87(2)(b) replied in the negative, the officer ordered him to move along. § 87(2)(b) reluctantly complied, but as PO McDermott turned to walk away, he heard a female ask for his name and shield number. The officer complied.

PO McDermott was thoroughly convinced that § 87(2)(b) was among the group that was cursing at the officers, but PO McDermott denied touching, threatening or using obscene language with § 87(2)(b). He also denied that he tried to goad § 87(2)(b) -- into speaking or acting out -- for any purpose.

PO Carla Thomas, interviewed at the CCRB on 10/2/03, said she was standing on 70th St., just east of Second Ave., when she saw PO McDermott cross in front of her and approach a civilian male about 12 to 25 feet away. PO Thomas did not hear any of the exchange between them, if any, because it was too loud, and also, because just then a female civilian approached PO Thomas to ask something to the effect of, “Why are you stopping us (from going east)?”

PO Thomas does not recall if she answered before the female insisted upon being informed of PO McDermott’s name and shield number. The woman appeared to know the male civilian that PO McDermott was speaking with. Before PO Thomas could answer, PO McDermott was near them and “loudly,” but not rudely, providing her with his name and shield number.

PO Thomas did not witness PO McDermott commit any police misconduct.

Lt. Kevin McGeever, interviewed at CCRB on 10/15/03, provided a general overview of what working this particular detail had been like. § 87(2)(g)

The whole day, conditions were chaotic and often dangerous for police officers charged with directing thousands of pedestrians north on Second Ave. The lieutenant explained that 72 St. was the street furthest south that was allowing pedestrians to cross eastbound, and most of the protesters had already been

forced to walk north a great deal before they had gotten to 70th St. Lt. McGeever and other, unknown officers had been “redeployed” to that location from another “because people were crossing the police barricades.” They were “unruly and abusive,” and seemingly believed that the police “weren’t being forthcoming” about why the civilians were not being allowed to cross eastbound further south.

Lt. McGeever *did* recall that PO McDermott was in his approximate area for much of the tour, and was “always professional while I was watching,” but they were not together all day.

There were “too many people” and “not enough police.” He said it was, “for lack of a better word, every man for himself.”

The lieutenant said he was impressed with the officers’ collective restraint in general, because he had never heard such horrible verbal abuse spewed at the police as he did on that day.

He witnessed no police misconduct.

Conclusions and Recommendations

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

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